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SUPREME COURT OF THE UNITED STATES.

No. ~~354.~~ 245 ~~[illegible]~~

THE UNITED STATES, PLAINTIFFS,

vs.

JOSEPH HAAS.

ON CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 354.

THE UNITED STATES, PLAINTIFFS,

vs.

JOSEPH HAAS.

ON CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

1 UNITED STATES OF AMERICA,
District of Minnesota:

At a circuit court of the United States, begun and held at Saint Paul, for the district of Minnesota, on Monday, the fifteenth day of June, in the year of our Lord one thousand eight hundred and sixty-three, and in the eighty-seventh year of American independence.

Present: The honorable Samuel F. Miller and Rensselaer R. Nelson, esquires.

THE UNITED STATES OF AMERICA
vs.
JOSEPH HAAS.

The defendant in this case was, at the June term of the U. S. district court for said district, in 1862, indicted under the act of Congress approved February 13th, 1862, entitled "An act to amend an act entitled An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," approved June thirteenth, eighteen hundred and thirty-four.

2 The indictment charges the defendant with having sold spirituous liquor to a certain Indian of the Winnebago tribe, under the charge of St. A. D. Balcombe, United States Indian agent for said tribe, at a time subsequent to the passage of said act, and at Mankato, in the county of Blue Earth, in the State of Minnesota, but does not charge the *locus in quo* to be within the reservation belonging to said tribe, or within any Indian reservation, or in the Indian country.

It is conceded that the *locus in quo* is not upon any Indian reservation, or in the "Indian country," but is within the State of Minnesota.

The defendant was, at the same term of the said district court, tried and convicted of the offence charged in the indictment, and thereupon he, by his counsel, moved that judgment upon the verdict be arrested for the following reasons:

1. Because the act of Congress under which the indictment is found is a mere police regulation, which cannot be extended in its operation beyond the territorial limits of the Indian country over which the United States has exclusive jurisdiction.

2. Because the power of Congress "to regulate commerce with the Indian tribes" does not include the authority to prohibit the sale of spirituous liquors, or any other article, to an individual Indian outside of any Indian reservation or the Indian country, and within a State and its jurisdiction. The act of selling spirituous liquor to an Indian at the *locus in quo*, is an offence only against the State
3 law prohibiting it, and is not, nor can be made, an offence against the United States.

The said mntion in arrest of judgment on said verdict was transferred from the said district court to this court for argument and determination, and the same came on to be heard and was argued at the present term thereof.

Upon the hearing of the cause on the motion in arrest of judgment the judges of the circuit are opposed in opinion on the following questions:

1. Whether, under the act of February 13th, 1862, the offence for which defendant is indicted was one of which the circuit court could have original jurisdiction?

2. Whether, under the facts above stated, any court of the United States had jurisdiction of the offence?

Which is ordered to be certified to the Supreme Court of the United States.

SAM. F. MILLER. [SEAL.]
R. R. NELSON. [SEAL.]

UNITED STATES OF AMERICA,
District of Minnesota, ss:

I, Horatio E. Mann, clerk of the circuit court of the United
4 States of America for the district of Minnesota, do certify, hereby, the foregoing to be a true copy from the minutes of said court.

Given under my hand and the seal of said circuit court,
[SEAL.] at St. Paul, in said district, this 5th day of October, in the year of our Lord one thousand eight hundred and sixty-three.

HORATIO E. MANN, *Clerk.*

Filed 12 Jan., 1864.